



**U.S. Citizenship  
and Immigration  
Services**

**Non-Precedent Decision of the  
Administrative Appeals Office**

In Re: 12009001

Date: MAY 18, 2021

**Motion on Administrative Appeals Office Decision**

Form I-140, Immigrant Petition for Alien Worker (Advanced Degree, Exceptional Ability, National Interest Waiver)

The Petitioner, a mathematics teacher, seeks second preference immigrant classification as a member of the professions holding an advanced degree, as well as a national interest waiver of the job offer requirement attached to this EB-2 classification. *See* Immigration and Nationality Act (the Act) section 203(b)(2), 8 U.S.C. § 1153(b)(2).

The Director of the Texas Service Center denied the petition, concluding that the Petitioner qualified for classification as a member of the professions holding an advanced degree, but that she had not established that a waiver of the required job offer, and thus of the labor certification, would be in the national interest. The Petitioner appealed the matter to us, and we summarily dismissed the appeal pursuant to 8 C.F.R. § 103.3(a)(1)(v). We subsequently dismissed a combined motion to reopen and motion to reconsider. The matter is again before us on a second motion to reopen and motion to reconsider. On motion, the Petitioner submits a brief.

In these proceedings, it is the Petitioner's burden to establish eligibility for the requested benefit. *See* Section 291 of the Act, 8 U.S.C. § 1361. Upon review, we will dismiss the motions to reopen and to reconsider.

**I. LAW**

A motion to reopen must state new facts and be supported by documentary evidence. 8 C.F.R. § 103.5(a)(2). In addition, a motion to reconsider must (1) state the reasons for reconsideration and be supported by any pertinent precedent decisions to establish that the decision was based on an incorrect application of law or U.S. Citizenship and Immigration Services (USCIS) policy, and (2) establish that the decision was incorrect based on the evidence in the record of proceedings at the time of the initial decision. 8 C.F.R. § 103.5(a)(3). We may grant a motion that satisfies these requirements and demonstrates eligibility for the requested immigration benefit.

## II. ANALYSIS

As an initial matter, we note that the review of any motion is narrowly limited to the basis for the prior adverse decision. Accordingly, we examine any new facts and arguments to the extent that they pertain to our prior dismissal of the Petitioner's combined motion to reopen and motion to reconsider.

With the present motion, the Petitioner submits a personal statement which discusses the impact of the pandemic on her family and confirms her commitment to being a teacher. However, the Petitioner does not provide new facts related to our prior decision or any new documentary evidence. Further, the Petitioner does not refer to any legal authority to demonstrate that we erred in denying her prior motion. A moving party must specify the factual and legal issues that were decided in error or overlooked in the decision or must show how a change in law materially affects the prior decision. *Matter of O-S-G*, 24 I&N Dec. 56, 60 (BIA 2006).

## III. CONCLUSION

The Petitioner has not shown that we erred as a matter of law or USCIS policy in dismissing her motion, nor has she established relevant new facts that would warrant reopening of the proceedings. Consequently, we have no basis for reopening or reconsideration of our prior decision. The Petitioner's appeal therefore remains dismissed, and her underlying petition remains denied.

**ORDER:** The motion to reopen is dismissed.

**FURTHER ORDER:** The motion to reconsider is dismissed.